IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

WP(C).No. 23710 of 2007(V)

MC.6/2006 of J.M.F.C.-II(MOBILE)KOZHIKODE

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PETITIONERS:

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1. BABAURAJ, S/O. APPUKUTTAN, AGED 37 YEARS
   POOLERY HOUSE, NANNAMBRA AMSOM
   KUNDOOR DESOM, THIRURANGADI TALUK.

2. KARIKUTTY, S/O. CHATHAPPAN, AGED 37 YEARS
   CHALANGATH HOUSE, NANNAMBRA AMSOM
   DO. DO.

BY ADV. SRI.N.K.SANATH KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REP. BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. V.M. MATHEW, PROPRIETOR
   M/S. TEXTILE TRADING C ORPORATION
   M.M. ALI ROAD, CALICUT-2.

3. P. MOOSA, S/O. UNNENKUTTY,
   MUTHIYATHUMPARAMBU, HAJAS PALLI
   MALAPPURAM AMSOM DESOM, ERNAD TALUK.

4. TAHSILDAR, (REVENUE RECOVERY), TIRURANGADI

R1 & 4 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 23710 of 2007 V

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Dated this the 2nd day of August, 2007

JUDGMENT

The petitioners have suffered an order under Section 446 Cr.P.C. The petitioners have not so far challenged the said order by filing appropriate appeal under Section 449 Cr.P.C. Without and before filing that, the petitioners have come to this Court.

2. What is the prayer? The short prayer is that a short stay may be granted. Why should such stay be granted? Only to enable the petitioners to prefer an appeal. Why have the petitioners not filed the appeal so far? Why did they, instead of filing appeal there, come running to this court? No satisfactory answers are forthcoming. I am certainly of the opinion that it is not necessary for this Court to entertain the writ petition now. The petitioners must immediately go before the learned Sessions Judge and prefer an appeal with application for condonation of delay, if that be necessary.

3. In the interests of justice, while dismissing this writ petition, I only observe that the learned Sessions Judge must expeditiously pass appropriate orders in the matter. The learned

counsel for the petitioners submits that on condition that half the amount shall be deposited within a period of one week execution of the steps for recovery may be stayed. The petitioners can make that request before the learned Sessions Judge. Needless to say, the learned Sessions Judge must pass appropriate orders expeditiously.

4. With the above observation this Writ Petition is dismissed.

5. Issue copy today itself.

(R. BASANT)
Judge

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